



DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[Docket No. FTA-2015-0017]

RIN 2132-ZA04

National Public Transportation Safety Plan

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice of availability of proposed National Public Transportation Safety Plan; request for comments.

SUMMARY: The Federal Transit Administration (FTA) invites public comment on a proposed National Public Transportation Safety Plan (National Safety Plan). FTA's proposed National Safety Plan is intended to guide the national effort in managing the safety risks within the Nation's public transportation systems. The direction and guidance set forth in the National Safety Plan is intended to guide FTA's partners within the transit industry towards improving an already excellent safety record.

The proposed National Safety Plan has been placed in the docket and posted on the FTA web site. If adopted, the National Safety Plan will be the primary communication tool for all of FTA's safety programs.

DATES: Comments must be received on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Any comments received beyond this deadline will be considered to the extent practicable.

FTA will hold a series of public webinars to discuss the contents of the proposed National Public Transportation Safety Plan and respond to clarifying questions. Please

check FTA's website at <http://www.fta.dot.gov/calendar.html> for further information regarding the dates and times of the webinars. In addition, FTA will hold a public listening session on March 16, 2016 at 9:30 a.m. during the APTA Legislative Conference, which is being held at the JW Marriot located at 1331 Pennsylvania Ave NW, Washington, DC, 20004.

ADDRESSES: You may submit comments to DOT docket number FTA-2015-0017 by any of the following methods:

Federal eRulemaking Portal: Go to <http://www.regulations.gov> and follow the online instructions for submitting comments.

U.S. Mail: Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Room W12-140, Washington, DC 20590-0001.

Hand Delivery or Courier: U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Fax: 202-493-2251

Instructions: You must include the agency name (Federal Transit Administration) and docket number (FTA-2015-0017) for this notice at the beginning of your comments. You must submit two copies of your comments if you submit them by mail. If you wish to receive confirmation FTA received your comments, you must include a self-addressed, stamped postcard. Due to security procedures in effect since October 2001, mail received through the U.S. Postal Service may be subject to delays. Parties submitting comments

may wish to consider using an express mail firm to ensure prompt filing of any submissions not filed electronically or by hand.

All comments received will be posted, without change and including any personal information provided, to <http://www.regulations.gov>, where they will be available to internet users. You may review DOT's complete Privacy Act Statement published in the **Federal Register** on April 11, 2000, at 65 FR 19477. For access to the docket and to read background documents and comments received, go to <http://regulations.gov> at any time or to the U.S. Department of Transportation, 1200 New Jersey Avenue SE, Docket Management Facility, West Building Ground Floor, Room W12-140, Washington, DC 20590 between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: For program matters, Brian Alberts, Office of System Safety, (202) 366-1783 or Brian.Alberts@dot.gov. For legal matters, Candace Key, Office of Chief Counsel, (202) 366-1936 or Candace.Key@dot.gov.

SUPPLEMENTARY INFORMATION: Pursuant to 49 U.S.C. 5329(b), FTA is obliged to create and carry out a National Public Transportation Safety Plan to improve the safety of all public transportation systems that receive Federal financial assistance under 49 U.S.C. Chapter 53. FTA seeks public comment on this first proposed National Safety Plan. The proposed National Safety Plan is available in its entirety on the agency's public website at <http://www.fta.dot.gov>, and in the docket at <http://www.regulations.gov>.

Pursuant to 49 U.S.C. 5329(b), a National Safety Plan must include, at minimum, the following:

- Safety performance criteria for all modes of public transportation;

- The definition of the term “state of good repair,” established under a rulemaking to implement a National Transit Asset Management System pursuant to 49 U.S.C. 5326(b);
- Minimum safety performance standards for public transportation vehicles used in revenue operations that are not otherwise regulated by any other Federal agency, and that, to the extent practicable, take into account relevant recommendations of the National Transportation Safety Board and other industry best practices and standards;
- Minimum safety standards to ensure the safe operation of public transportation systems that are not related to vehicle performance standards;¹ and
- A safety certification training program.

The proposed National Safety Plan addresses each of the aforementioned statutory requirements. In addition, the proposed National Safety Plan would serve as FTA’s primary tool for communicating with the transit industry about the industry’s safety performance.

The proposed National Safety Plan is organized into the following four chapters:

Chapter I Introduction and Background: Chapter I explains the purpose for the Plan and introduces the state of safety performance in the public transportation industry.

Chapter II Safety Management Systems: Chapter II provides a framework for applying SMS to transit agencies of any size or mode of public transportation.

¹ The requirement for minimum standards for operations was authorized under the Fixing America’s Surface Transportation Act (“FAST”) (Pub. L. 114-94 (2015)). The FAST Act supersedes MAP-21 and was signed into law by the President on December 4, 2015.

Chapter III Safety Performance Management for Public Transportation: Chapter III

lays out FTA's strategic approach to safety performance. This chapter sets forth FTA's safety vision and mission, establishes safety performance criteria for all modes of public transportation, and presents performance measures designed to improve safety performance in day-to-day operations. This chapter also describes how FTA will collect and disseminate safety performance data, and based on that data, set national goals for improving the transit industry's safety performance.

Chapter IV Managing Risk to Improve Public Transportation Safety Performance:

Chapter IV provides information about the actions FTA has taken to address safety risks within the public transportation industry, information on tools that transit providers can use to implement SMS in their agencies, information about other sources of technical assistance, and the public transportation safety certification training program.

FTA expects to update the National Safety Plan, from time to time, in response to trends in risk management in the transit industry, emerging technologies, best practices, findings from research, and other industry developments. FTA will establish all future editions of the National Safety Plan through public notice-and-comment.

FTA plans to base each edition of the National Safety Plan on the principles and methods of Safety Management Systems (SMS): a formal, top-down, organization-wide approach to managing safety risks and ensuring the effectiveness of a public transportation agency's safety risk mitigations. In his Dear Colleague letter dated May 13, 2013, the former Federal Transit Administrator, Peter Rogoff, described SMS as a flexible, performance-based regimen that will help a safe industry become even safer by

fostering sound safety policy and culture at every transit system, whatever its size or mode of operation. See, http://www.fta.dot.gov/newsroom/12910_15391.html.

In this issue of the Federal Register, FTA also is publishing a notice of proposed rulemaking (NPRM) for Public Transportation Agency Safety Plans. The NPRM would require operators of public transportation systems that receive Federal financial assistance under 49 U.S.C. chapter 53 to develop and implement Public Transportation Agency Safety Plans based on the Safety Management System approach. FTA seeks public comments on all aspects of the proposed rule, including information related to its benefits and costs, as well as alternative approaches that may be more cost-effective in satisfying the statutory requirements.

Readers should please note that two key elements of the National Safety Plan—the definition of *state of good repair*, and the Public Transportation Safety Certification Training Program—are the subjects of rulemakings already underway. On October 3, 2013, FTA issued an Advance Notice of Proposed Rulemaking for transit asset management and several safety programs, at 78 FR 61251-72, which offered a number of alternative approaches for defining the term *state of good repair*. On February 27, 2015, FTA announced interim provisions for the Public Transportation Safety Certification Program, at 80 FR 10619-26. The interim provisions became effective on May. FTA published an NPRM for safety certification training on December 3, 2015. 80 FR 75639. The public comment period for the training certification NPRM closed on February 1, 2016, and FTA is now reviewing the comments. On September 30, 2015, FTA published a notice of proposed rulemaking for transit asset management. 80 FR 58912. FTA will publish a final rule for transit asset management in the coming months. FTA has

addressed ANPRM comments received on the National Safety Plan in a separate document that we have posted in the docket.

Two other key elements of the National Safety Plan—the minimum safety performance standards for public transportation vehicles used in revenue operations and minimum operational standards—may eventually be the subject of rulemaking. For the time being, however, FTA is proposing to establish voluntary vehicle performance standards and voluntary operational standards in this first iteration of the National Safety Plan. FTA seeks specific comment on the following questions related to the proposed standard:

1. Has your agency adopted any of the proposed voluntary standards?
2. What is the cost to your agency of implementing the proposed voluntary standards?
3. What other standards has your agency adopted?
4. In what other areas should FTA establish standards?

Other elements of the National Safety Plan, including, specifically, the safety advisories, directives, and reports that FTA will issue, from time to time, need not be the subject of notice-and-comment, but the agency will include them in the National Safety Plan for the purpose of communicating with the transit industry and the public on matters of general interest in improving the safety of public transportation. After reviewing and responding to the comments received on this proposed National Public Transportation Safety Plan, FTA will issue a final National Safety Plan.

Therese W. McMillan,

Acting Federal Transit Administrator.

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